

**COURT OF APPEALS
DECISION
DATED AND FILED**

May 15, 2018

Sheila T. Reiff
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**Appeal No. 2017AP25
STATE OF WISCONSIN**

Cir. Ct. No. 2015CV243

**IN COURT OF APPEALS
DISTRICT III**

RED WING AEROPLANE,

PLAINTIFF-RESPONDENT,

V.

MICHAEL CORRAL,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Pierce County:
JOSEPH D. BOLES, Judge. *Affirmed.*

Before Stark, P.J., Hruz and Seidl, JJ.

Per curiam opinions may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

¶1 PER CURIAM. Michael Corral, pro se, appeals from a default judgment granted in favor of Red Wing Aeroplane Company.¹ We affirm.

¶2 Red Wing is a small airplane company headquartered in Wisconsin. Red Wing provides training for its pilots. Training costs vary, but Red Wing's best estimate of the training cost per pilot is \$12,000. New pilots sign a promissory note securing the pilot's obligation to reimburse Red Wing \$1,000 monthly for the training, commencing the first day of the month following the execution of the note. The note provides that monthly payments are forgiven for each full calendar month that the pilot continues employment. The entire remaining balance is due immediately "upon termination of employment ... for any reason except ... causes not attributable to [the pilot]" if a pilot's employment is terminated during the first twelve months of employment with Red Wing.

¶3 Red Wing hired Corral as a pilot. Shortly after Corral's training began, he drove a Red Wing company car to a Green Bay Packers football game. Red Wing claimed that Corral "took a company vehicle to attend a Green Bay Packers game, against both company policy and contrary to warnings from other employees.

¹ Red Wing's response brief to this court does not cite any portion of the record, in violation of WIS. STAT. RULES 809.19(3)(a)2., (1)(d) and (e) (2015-16). It should be apparent to all lawyers that appellate briefs must give references to pages of the record on appeal for each statement and proposition made in the appellate brief. *Haley v. State*, 207 Wis. 193, 198-99, 240 N.W. 829 (1932). Counsel is admonished that future violations of the rules of appellate procedure may result in sanctions.

All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

¶4 Corral was informed that he was being terminated for unlawful use of company property. Red Wing thereafter commenced the present civil action against Corral, claiming that, at the time of separation, Corral still owed the company \$2,000 on the promissory note Corral executed at the time he was hired.² Personal service of the summons and complaint was accomplished upon Corral in Arizona on January 19, 2016.

¶5 Appearing pro se, Corral submitted correspondence to the circuit court, filed February 4, 2016, seeking dismissal of the lawsuit on the grounds that, prior to service of process upon Corral, a suit regarding the same dispute had been filed by Corral in Arizona. Corral also challenged Red Wing's use of the name "Michael Corral E. Wendell," in the body of the complaint. It is undisputed that Corral failed to serve his February 4 correspondence upon Red Wing.

¶6 On February 8, 2016, the circuit court's judicial assistant sent Corral correspondence stating the court "has not yet reviewed the submission as it is 'ex parte.'" The judicial assistant advised, "As a courtesy I am forwarding a copy of your filing to [Red Wing's attorney] with a copy of this letter."

¶7 Red Wing subsequently filed a "Motion for Default Judgment Or In The Alternative For Summary Judgment." The parties filed respective affidavits. The circuit court granted default judgment following a hearing. Corral now appeals.

² The complaint alleged the principal balance owing on the note "is currently in the amount of \$4,004.00." However, the complaint sought a judgment in the amount of \$2,000.00 plus costs and attorney fees. Red Wing does not explain how it arrived at the amount sought, but Corral fails to challenge on appeal the amount of damages awarded and we will not further address the issue.

¶8 WISCONSIN STAT. § 806.02(1) confers discretion upon the circuit court in deciding whether to grant default judgment. We will affirm on appeal the court's decision to grant default unless a clearly erroneous exercise of discretion is shown. *Johns v. County of Oneida*, 201 Wis. 2d 600, 605, 549 N.W.2d 269 (Ct. App. 1996).

¶9 Corral does not allege in his appellate briefs that he served an answer or other responsive pleading upon Red Wing within twenty days after service of the complaint upon him, as required by WIS. STAT. § 802.06(1). In fact, Corral fails to address the issue of default judgment whatsoever in his appellate briefs; his briefs on appeal do not argue why the default judgment was entered in error. Instead, Corral's briefs address solely the issue of summary judgment. As a result, Corral has forfeited the opportunity for our review of the default issue. *See Reiman Assocs., Inc. v. R/A Advert., Inc.*, 102 Wis. 2d 305, 306 n.1, 306 N.W.2d 292 (Ct. App. 1981).

¶10 In addition, the record on appeal does not contain a transcript of the motion hearing. The appellant must ensure a complete record for the issues on review. *Fiumefreddo v. McLean*, 174 Wis. 2d 10, 26-27, 496 N.W.2d 226 (Ct. App. 1993). Missing material is assumed to support the circuit court's decision. *Id.* We will not abandon our neutrality to develop arguments. *M.C.I., Inc. v. Elbin*, 146 Wis. 2d 239, 244-45, 430 N.W.2d 366 (Ct. App. 1988). Accordingly, the circuit court's judgment of default is affirmed. Only dispositive issues need be addressed, and we decline to address other issues presented. *See Gross v. Hoffman*, 227 Wis. 296, 300, 277 N.W. 663 (1938).

By the Court.—Judgment affirmed.

This opinion will not be published. See WIS. STAT. RULE
809.23(1)(b)5.

